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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,118	10/17/2003	Kenneth Douglas Vinson	9066M2	9231

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THE PROCTER & GAMBLE COMPANY
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EXAMINER	
CORDRAY, DENNIS R	
ART UNIT	**PAPER NUMBER**
1731	

DATE MAILED: 04/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/688,118	**Applicant(s)** VINSON, KENNETH DOUGLAS	
	Examiner Dennis Cordray	**Art Unit** 1731	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 March 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-20*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

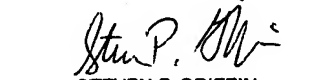
Continuation of 13. Other: Applicant has argued that the prior art references do not teach or suggest all of the claim limitationsbecause they do not teach addition of the water-in-oil emulsion into an oil-in-water phase. As discussed in the previous rejection, Barnholtz discloses an aqueous composition for softening an absorbent tissue that comprises a softening agent and that softening agents can include waxes, mineral oil, silicone oil, petrolatum, quaternary ammonium compounds with long alkyl chains, fatty acids, fatty alcohols and fatty esters, many of which would form oil-in-water emulsions (p 3, lines 6-13). Barnholtz does not disclose adding a high molecular weight polymer via a water-in-oil emulsion. As also discussed in the rejection, Anderson et al discloses adding a high molecular weight polymer into an aqueous solution via a water-in-oil emulsion and that the addition can be used in papermaking operations. Anderson et al thus contemplates use of the water-in-oil emulsions added to solutions containing papermaking stock, recycle materials, furnishes, etc., which solutions often have softeners, waxes and other oily materials that can form oil-in-water emulsions. In addition, Anderson et al discloses the use of water-in oil emulsions in treating of industrial and sewage wastes as well as in the secondary recovery of petroleum by water flooding, all of which can involve adding the water-in-oil emulsions to an oil-in-water emulsion.

Applicant argues that Barnholtz teaches the inclusion of electrolytes as rheology modifying agents and that they will disrupt the crystalline structure of the softening active ingredient. Barnholtz states that the electrolytes can reduce viscosity and thus are used to allow an increase in the concentration of softening agent to a suitable level, which would normally cause unacceptably high viscosity, without an unduly increasing the viscosity (pp 20-22). The bilayer disrupter, not the electrolyte, disrupts the order of the liquid crystalline structure and also causes a reduction in viscosity (lines 12-16). Applicants also argue that the cited references might make it obvious to try a water-in-oil emulsion with the Barnholtz composition but do not give any expectation of success. Again, since Anderson et al discloses the use of such emulsions in papermaking processes, which can include electrolytes, oils, surfactants, softeners, and many other additives, one of ordinary skill in the art would be motivated to try a water-in-oil emulsion with a reasonable expectation of success.

Applicant argues that the Gibbs free energy equation would cast doubt on the effectiveness of combining the teachings of Anderson et al with Barnholtz. The Gibbs free energy expression is based on the difference between delta H and T*delta S. It might be expected that both delta H and delta S will positive; however, the difference, delta H - T*delta S can still be negative, resulting in a negative delta G. So long as the compositions used lie within those taught by Anderson et al, one would still be reasonably confident that the water-in-oil emulsion could be an effective method for adding the high molecular weight polymer to the composition of Barnholtz.

Applicant argues that Anderson teaches using at least 2% by weight of the polymer in the water-in-oil emulsion and that this teaches away from the claimed composition of 0.0005 to 0.5% in Claim 6 or 0.0005 to 0.2% in Claim 14. The composition of Claims 6 and 14 relates to the amount of polymer in the oil-in-water composition after addition via a water-in-oil emulsion. Anderson teaches that the inversion method works well for final polymer concentrations after inversion of 0.1 to 20% by weight, which significantly overlaps the claimed concentration.

The rejections are maintained.



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